

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

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BPP,

Plaintiff,

vs.

CAREMARK PHC, L.L.C. d/b/a CVS  
Caremark,

Defendant.

Case No. \_\_\_\_\_

Removed from the Circuit Court for the  
21st Judicial Circuit of Missouri

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**NOTICE OF REMOVAL**

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Clerk of Court  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
Thomas F. Eagleton Courthouse  
111 South 10<sup>th</sup> Street, Suite 3300  
St. Louis, MO 63102

Clerk of Circuit Court  
ST. LOUIS COUNTY CIRCUIT COURT  
21ST JUDICIAL CIRCUIT OF MISSOURI  
105 South Central Avenue  
Clayton, MO 63105

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*Attorney for Plaintiff*

PLEASE TAKE NOTICE that Defendant Caremark PhC, L.L.C. (“Caremark”)<sup>1</sup>,  
by and through its undersigned counsel, hereby removes the civil action known as *BPP v.*  
*Caremark PhC, L.L.C. d/b/a CVS Caremark* (Cause No. 19SL-CC05616) from the St. Louis  
County Circuit Court for the 21st Judicial Circuit of Missouri to the United States District Court

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<sup>1</sup> In filing this notice of removal, Caremark PhC, L.L.C in no way admits that it is the appropriate corporate-entity defendant for purposes of BPP’s claims in this litigation.

for the Eastern District of Missouri under 28 U.S.C. §§ 105, 1331, 1441, and 1446. The grounds for removal are:

1. Plaintiff BPP initiated this action on December 6, 2019, by filing a Class Action Junk-Fax Petition (“Petition”) in the St. Louis County Circuit Court for the 21st Judicial Circuit of Missouri, Cause No. 19SL-CC05616 (“State Court Action”).

2. Caremark first received copies of the Petition on December 27, 2019.

3. True and correct copies of BPP’s summons and Petition in the State Court Action are attached to this Notice as **Exhibit A**. Aside from a notice informing the Court of service upon Caremark, no other process, order, or other pleading in the State Court Action has been filed or received by Caremark to date. A true and correct copy of the docket entries in the State Court Action is attached to this Notice as **Exhibit B**.

4. Thirty days have not yet expired since this action became removable to this Court. Removal is therefore timely under 28 U.S.C. § 1446(b)(1).

5. In its Petition, BPP alleges Caremark violated the Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227 (“TCPA”), by sending it a facsimile message on or about September 4, 2019.

6. The State Court Action is a civil action that may be removed to this Court under 28 U.S.C. § 1441(a) because it is one over which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1331. Specifically, the federal courts possess federal-question jurisdiction over private TCPA claims such as BPP’s claim in this case. *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 386–87 (2012).

7. BPP alleges no other cause of action besides its TCPA claim.

8. Under 28 U.S.C. § 105(a)(1) and 28 U.S.C. § 1441(a), removal to the United States District Court for the Eastern District of Missouri, Eastern Division, is proper, as it is the federal judicial district encompassing the St. Louis County Circuit Court for the 21st Judicial Circuit of Missouri.

9. In compliance with Civil Local Rule 2.02, a completed Civil Cover Sheet is attached as **Exhibit C** and an Original Filing Form is attached as **Exhibit D**. In compliance with Civil Local Rule 2.09, Caremark is filing a separate Disclosure of Organizational Interests Certificate contemporaneously with this Notice of Removal.

10. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal, a copy of this Notice of Removal, and copies of all exhibits will be promptly filed with the Clerk of Circuit Court for the 21st Judicial Circuit District of Missouri and served upon BPP's counsel of record. A true and correct copy of the Notice of Filing of Removal is attached as **Exhibit E**.

11. There are no defendants named in BPP's Petition in the State Court Action other than Caremark.

12. Wherefore, Caremark respectfully gives notice that this action is removed from the St. Louis County Circuit Court for the 21st Judicial Circuit of Missouri to the United States District Court for the Eastern District of Missouri, Eastern Division. In filing this Notice of Removal, Caremark does not waive, and expressly reserves, any defense that may be available to it.

Dated: January 27, 2020

FOLEY & LARDNER LLP

/s/ Kaleb N. Berhe

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**Certificate of Service**

I certify that on January 27, 2020, a copy of this document, and all exhibits thereto, was filed electronically with the Clerk of this Court and sent via first-class U.S. mail and electronic mail to the following counsel of record:

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